

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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|----------------------------|---|--------------|
| JOHN KNIGHT, et. al. |) | |
| |) | |
| Plaintiffs |) | |
| |) | |
| v. |) | 04-12698 JLT |
| |) | |
| CHRISTMAS TREE SHOPS, INC. |) | |
| |) | |
| Defendant |) | |

MEMORANDUM IN SUPPORT
OF PLAINTIFFS' MOTION TO COMPEL

On December 7, 2005 this Court ordered defendants to make Charles Bilezikian available for a deposition. Plaintiffs requested available dates for Mr. Bilezikian immediately and were informed that he was available only two days during the seven-week period remaining in discovery.

As required by the local rules, L.R. 7.1 (a)(2) and L.R. 37.1(a), plaintiffs' counsel, Joel D. Joseph, has conferred in good faith with opposing counsel. A discovery conference was held on December 27, 2005. Mr. Joseph had a telephone conference with Mr. Biagetti by telephone. According to Mr. Biagetti, Mr. Bilezikian is unwilling to change his business plans and appointments to submit to a deposition, even though Mr. Joseph is willing to have the deposition at Mr. Bilezikian's office, so that Mr. Bilezikian's time will be minimized.

For all of these reasons, the motion should be granted. In addition, plaintiffs' seek attorneys' fees in the amount of \$1,100.00, which includes two

hours of Mr. Joseph's time, for the preparation of this motion, at his standard rate of \$550.00 per hour.

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CERTIFICATE OF SERVICE

I hereby certify that I have mailed a copy of this Memorandum in Support of Plaintiffs' Motion to Compel this 28th day of December, 2005 to Peter Biagetti, Esquire at Mintz, Levin, Cohn, Ferris, Glovsky and Popeo P.C., One Financial Center, Boston, MA 02111.

Daniel E. Chaika, Esquire